IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 255 OF 2005

Anand Kundalika Patil. ... Appellant.
Versus.
Rajendra Dattatraya Patil & ors. ... Respondents.

Shri G.S.Godbole for the Appellant.

Shri T.S.Ingale for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 28th April, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties.

2. Leave to amend Memorandum of Appeal is granted.

3. The Appeal is by the unsuccessful Defendant. The decree for declaration and injunction has been granted by the trial Court in favour of the Respondents.

4. Shri Godbole appearing for the Appellant submitted that the Respondents have not established title. He submitted that even according to the case of the Respondents name on one Yeshu Rama Patil was entered in the records of the Grampanchayat. The said Yesu had a daughter. He submitted that the Courts below have recorded a finding that the grand son of Yeshu Rama has become the owner of the property on his demise and the said finding is factually incorrect as the said Yesu was survived by a daughter. He submitted that the Respondents are claiming through Bapu Rangrao, grand son

of Yeshu Rama who cannot claim ownership as his mother would have succeeded to the property of Yeshu Rama. He submitted that some of the important submissions are not considered by the Courts.

5. The Courts below have recorded a finding that Yeshu Rama was the owner of the property. The name of the Appellant was initially included at the time of city survey enquiry in the City Survey records of the property in question. Later on the Competent Authority deleted the name of the Appellant and the names of the Respondents/Plaintiffs were entered. The Courts below have therefore found that the Appellant has no right, title and interest in the property. On the other hand the Appellant is claiming on the basis of the sale deed executed by Bapu Rangrao who was admittedly the grand son of Yeshu Rama who is held to be the owner of the property.

6. There are concurrent findings of fact recorded by the Courts below. Merely because a different view can be taken on the basis of the evidence on record is no ground to interfere in the Second Appeal under section 100 of the Code of Civil Procedure, 1908. There is no merit in the Second Appeal. The same is dismissed with no order as to costs.

Judge.